

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**ALEXANDER RODRIGUEZ and,
ROSALINA MILIAN,**

Plaintiffs,

v.

QUICKEN LOANS, INC.

Defendant.

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CIVIL ACTION NO. _____

**DEFENDANT QUICKEN LOANS, INC.'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Quicken Loans, Inc. (“Quicken Loans”) hereby gives notice of the removal of Cause No. 16-04-03892 currently pending in the 284th District Court of Montgomery County, Texas to the United States District Court for the Southern District of Texas, Houston Division, and states as follows:

I. THE NATURE OF THIS ACTION

1. The removed case is a civil action that Plaintiffs Alexander Rodriguez and Rosalina Milian (“Plaintiffs”) filed in the 284th Judicial District Court of Montgomery County, Texas. The case is styled: *Alexander Rodgriuez and Rosalina Milian v. Quicken Loans, Inc.*, Cause No. 16-15-08448 (the “State Court Action”).

2. Plaintiffs’ Petition and Application for Temporary Restraining Order, Temporary Injunction and Request for Disclosures (“Petition” or “Pet.”) brings claims against Quicken Loans under the Real Estate Settlement Procedures Act (“RESPA”) and regulations promulgated

thereunder; for violation of Texas law in connection with Quicken Loans' pursuit of a nonjudicial foreclosure; and for a declaratory judgment. (*See* Pet. ¶¶ 15-23.) Plaintiffs sought and were granted a temporary restraining order preventing Defendant from exercising its rights under the Deed of Trust ("DOT") by the 284th District Court of Montgomery County.

II. REMOVAL IS PROCEDURALLY PROPER

3. Venue for removal is proper in the Southern District of Texas, Houston Dallas Division under 28 U.S.C. § 1441(a) because this district and division embrace the 284th Judicial District Court of Montgomery County, Texas, the forum in which the removed action is pending.

4. This Notice of Removal is timely under the provisions of 28 U.S.C. § 1446(b) because this Notice of Removal was filed before thirty days expired after purported service. Quicken Loans has not been served with process as of the date of this filing.

5. A written notice attaching a copy of this Notice of Removal is being served on Plaintiffs and filed with the Clerk of the 284th Judicial District Court of Montgomery County, Texas, as provided by 28 U.S.C. § 1446(d).

6. True and correct copies of process, pleadings, and orders filed in the State Court Action are attached hereto as required by 28 U.S.C. § 1446(d) and Local Rule 81:

EXHIBIT A: A completed Civil Cover Sheet.

EXHIBIT B: An Index of Matters Being Filed

EXHIBIT C: Certified copy of the state court docket sheet.

EXHIBIT D: True and correct copies of all pleadings asserting causes of action, all answers to such pleadings, and all orders signed by the state judge.

EXHIBIT E: A list of all counsel of record, including addresses, bar numbers, telephone numbers, and parties represented.

III. THIS COURT HAS FEDERAL QUESTION JURISDICTION

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and, therefore, it may be removed to this Court under the provisions of 28 U.S.C. §§ 1441 and 1446. Removal under Section 1441 is appropriate because Plaintiffs allege a claim for violation of federal law, to wit, RESPA and Regulation X promulgated thereunder. *See* 12 U.S.C. § 2605; 12 C.F.R. § 1024.41. Plaintiffs allege that Quicken Loans violated Regulation X in the process to pursuing a non-judicial foreclosure under the DOT granted by Plaintiffs in Quicken Loans' favor. (Pet. ¶ 15.) Plaintiffs consequently have alleged a claim under RESPA Section 6(f), codified at 12 U.S.C. § 2605(f). *See* 12 C.F.R. § 1024.41(a).

8. Nothing in this Notice of Removal should be interpreted as a waiver or relinquishment of Quicken Loans' rights to assert defenses or objections including, without limitation, the defenses of (i) lack of jurisdiction over the person, (ii) improper venue and/or *forum non conveniens*, (iii) insufficiency or lack of process or service of process, (iv) improper joinder of claims and/or parties, (v) failure to state a claim, (vi) failure to join an indispensable party(ies), or (vii) any other procedural or substantive defense available under state or federal law.

9. If any question arises as to the propriety of the removal of this action, Quicken Loans requests the opportunity to brief any disputed issues and to present further evidence and oral argument in support of their position that this case was properly removed.

IV. JURY DEMAND

10. Plaintiffs demand a jury in the State Court Action. (Pet. ¶ 31).

V. CONCLUSION

For the foregoing reasons, Quicken Loans hereby removes the above-styled and captioned cause pending in the 284th Judicial District Court of Montgomery County, Texas to this Court under 28 U.S.C. §§ 1331, 1441, and 1446 and requests that further proceedings be conducted in the Houston Division of the U.S. District Court of the Southern District of Texas as provided by law.

April 13, 2016.

Respectfully Submitted,

/s/ Peter S. Wahby

Peter S. Wahby
State Bar No. 24011171
Email: wahbyp@gtlaw.com
GREENBERG TRAURIG, LLP
2200 Ross Avenue
Suite 5200
Dallas, Texas 75201
Tel: (214) 665-3600
Fax: (214) 665-3601

**ATTORNEY FOR DEFENDANT QUICKEN
LOANS, INC.**

CERTIFICATE OF SERVICE

This is to certify that on this 13th day of April, 2016, a true and correct copy of the above and foregoing has been served on the following counsel via Certified Mail, Return Receipt Requested to the address below:

Robert “Chip” C. Lane
Anh Thu N. Dinh
Dominique N. Hinson
The Lane Law Firm
6200 Savoy, Suite 1150
Houston, Texas 77036-3300

/s/Peter S. Wahby
Peter S. Wahby